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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/022,353	12/13/2001	Donald Gringer	ALWA.P0002	2613

7590 10/15/2003

LACKENBACH SIEGEL  
One Chase Road  
Scarsdale, NY 10583

EXAMINER

BALSIS, SHAY L

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 10/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/022,353

Applicant(s)

GRINGER, DONALD

Examiner

Shay L Balsis

Art Unit

1744

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 March 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 12-27 is/are rejected.
- 7) ☒ Claim(s) 10 and 11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Information Disclosure Statement*

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### *Claim Objections*

2. Applicant is advised that should claims 14 and 15 be found allowable, claims 19 and 20 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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4. Claims 1-3, 7-8, 12-15, 19 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Gringer et al. "*Gringer*" (USPN D453281).

Gringer teaches scraper comprising a handle, a double-edge blade and a means for removably attaching the blade to the handle. The handle has a distal end, a proximate end, an upper surface, lower surface and oppositely disposed sides. The distal end comprising an angularly disposed surface for receiving the blade, wherein the upper surface is elongated arcuately curved downwardly toward the distal end. The handle upper surface is more steeply curved towards the distal than toward the proximate end. The handle sides are arcuately flared outwardly towards the proximate end.

5. Claims 1-8, 12-15 and 19-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Panfili et al. "*Panfili*" (USPN 6629331).

Panfili teaches scraper comprising a handle (1), a double-edge blade (3) and a means for removably attaching the blade to the handle (23). The handle has a distal end, a proximate end, an upper surface, lower surface and oppositely disposed sides. The distal end comprising an angularly disposed surface for receiving the blade, wherein the upper surface is elongated arcuately curved downwardly toward the distal end. The handle upper surface is more steeply curved towards the distal than toward the proximate end. The handle sides are arcuately flared outwardly towards the proximate end (see figure 1). The lower surface has two elongate concave surfaces with a protrusion disposed between the concave surfaces (see figure 1, concave surfaces are not labeled but best shown by numerals 37 and 11 and the protrusion is the best shown as 35). The handle comprises an inner thermoplastic core and an outer softer elastomeric cover.

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6. Claims 1-8, 12-15 and 19-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Shea (USPN D424767).

Shea teaches scraper comprising a handle, a double-edge blade and a means for removably attaching the blade to the handle. The handle has a distal end, a proximate end, an upper surface, lower surface and oppositely disposed sides. The distal end comprising an angularly disposed surface for receiving the blade, wherein the upper surface is elongated arcuately curved downwardly toward the distal end. The handle upper surface is more steeply curved towards the distal than toward the proximate end. The handle sides are arcuately flared outwardly towards the proximate end. The lower surface has two elongate concave surfaces with a protrusion disposed between the concave surfaces. The handle comprises an inner thermoplastic core and an outer softer elastomeric cover.

7. Claims 1, 2, 7-8, 12, 16-20, 22-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Skarsten (USPN 3363316).

Skarsten teaches scraper comprising a handle (10), a double-edge blade (11) and a means for removably attaching the blade to the handle (20). The handle has a distal end, a proximate end, an upper surface, lower surface and oppositely disposed sides. The distal end comprising an angularly disposed surface for receiving the blade, wherein the upper surface is elongated arcuately curved downwardly toward the distal end. The handle upper surface is more steeply curved towards the distal than toward the proximate end. The blade has an enlarged slot (17) and a means for detaching attaching the blade to the handle. The blade is located to lie in the fore and aft direction of the handle by means of two circular holes (not shown) in the blade one on either side of the enlarged slot. The holes make engagement with a corresponding stud

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projection from the handle. The stud engages with one of the holes when the blade is in the position shown in figure 1 and with the other hole when the blade is in the position shown in figure 4. To rotate the blade from one position to another the boss (20) is rotated to slacken the screw (19), the blade is rotated and then the boss is tightened. The slot (17) is larger than the screw and there is a cylindrical flange projecting from the handle, which makes engagement with the sides of the slot (col. 2, lines 1-17).

8. Claims 1-3, 7-8, 12-20, 22-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Carpenter (USPN 5309598).

Carpenter teaches scraper comprising a handle (11), a double-edge blade (12) and a means for removably attaching the blade to the handle (18, 19, 21, 22). The handle has a distal end, a proximate end, an upper surface, lower surface and oppositely disposed sides. The distal end comprising an angularly disposed surface for receiving the blade, wherein the upper surface is elongated arcuately curved downwardly toward the distal end. The handle upper surface is more steeply curved towards the distal than toward the proximate end. The handle sides are arcuately flared outwardly towards the proximate end. The handle upper surface is more steeply curved towards the distal than toward the proximate end. The blade has an enlarged slot (21) and a means for detaching attaching the blade to the handle comprising a post (18) and a locking screw. The blade comprises circular holes (22) that receive the post to allow the blade to be removed or rotated without removing the screw. To rotate the blade from one position to another the boss screw is loosed enough to allow the post to be rotated from one hole to another. Once the blade has been rotated, the screw is retightened.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 9, 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gringer et al., Panfili et al., Shea, Skarsten and Carpenter all in view of Delano (USPN 822928).

Gringer et al., Panfili et al., Shea, Skarsten and Carpenter teach all the essential elements of the claimed invention however the references fails to teach a files stowed in the handle of the scraper comprising a half-round surface and a flat surface. Delano teaches a handle with a slotted recessed for stowing a file (11) with round ends and a flat body. It would have been obvious to one of ordinary skill in the art at the time the invention was made to add a slotted recess to the handles of Gringer et al., Panfili et al., Shea, Skarsten and Carpenter to allow for storage of a file. The file would allow for easy quick and easy sharpening of the blade and also eliminates the problem of losing the file.

***Allowable Subject Matter***

11. Claims 9 and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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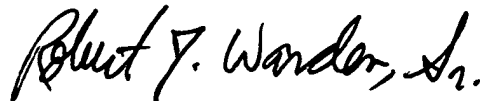
*Conclusion*

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shay L Balsis whose telephone number is 703-305-7275. The examiner can normally be reached on 7:30-5:00 M-Th, alternating F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J. Warden can be reached on 703-308-2920. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5665.

Slb  
10/9/03



ROBERT J. WARDEN, SR.  
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